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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,288	07/09/2001	Taisuke Hirono	3005-29 (D5620-26)	7132

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EXAMINER

LEE, SEUNG H

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/901,288

Applicant(s)

HIRONO ET AL.

Examiner

Seung H Lee

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1. Receipt is acknowledged of the Amendment filed on 14 May 2003, which has been entered in the file.

Specification

2. The corrected or substitute Specification were received on 14 May 2003. These Specifications are accepted.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berssen et al. (US 5,386,287)(hereinafter referred to as 'Berssen') in view of Fann (US 6,279,828).

Berssen teaches a computer (4) serving as a cuvette control unit comprising a reading device (3) for reading a first bar code (8) in which the first bar code is affixed to the chemical sensor (1), evaluating information/data that is read from the barcode using the reading device with computer wherein the computer is equipped with a memory for evaluating process (see figure; col. 3, lines 4-59).

However, Berssen fails to teach or fairly suggest that the barcode comprises a start code, a stop code, a code for information, and a code for inspection.

Fann teaches a one dimensional bar code comprising the start code and stop code serving as control codes and data portion of code and checksum code serving as information code wherein each and every barcode pattern encodes different values, decoding the assigned value to the each and every barcode using decoder (5) (see Figs. 1A-7; col. 5, line 44- col. 8, line 37; col. 11, line 63- col. 12, line 34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Fann to the teachings of Berssen in order to provide an improved and an enhanced operation means wherein the reading device can start to decode information/data if the start code is detected and stop to decode if the stop code is detected. Moreover, such modification (i.e., the barcode is comprised with checksum code) would reduce the error in reading of barcode by comparing the value of information/data section of barcode with values of checksum code of barcode, and therefore an obvious expedient.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berssen as modified by Fann as applied to claim 1 above, and further in view of Ackley et al. (US 6,012,638)(hereinafter referred to as 'Ackley').

The teachings of Berssen/Fann have been discussed above.

Although, Berssen/Fann teach the computer system having the reading device for reading the barcode, they fail to teach or fairly suggest that a barcode comprises a two digits code and one character code.

However, Ackley teaches that digits and characters for representing corresponding barcodes wherein the character code comprising check code "C", and data in which is assigned for each and every value accordingly (see Figs. 2 and 4; col. 6, line 41- col. 7, line 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Ackley to the teachings of Berssen/Fann in order to provide an additional means for storing/representing same information/data in form of digits and characters in addition to the barcode format. Although, Berssen/Fann as modified by Ackley teaches that the barcodes comprises digits and characters, they fail to particularly teach that the opposite ends of two digits consisting of one character of information. However, it would have been an obvious design variation well within the ordinary skill in the art, failing to provide any unexpected results, for representing barcode with the sequences of the digits and the characters since the combination of the digits and the characters can be generated in several orders (e.g., two digits followed by the characters, the characters followed by two digits, the character in between the digits, etc.) according to the data for representing values thereof, and therefore an obvious expedient.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berssen as modified by Fann as applied to claim 1 above, and further in view of Barker et al. (US 4,900,513)(hereinafter referred to as 'Barker').

The teachings of Berssen/Fann have been discussed above.

Although, Berssen/Fann teach the computer system having the reading device for reading the barcode, they fail to teach or fairly suggest that a second barcode is affixed on the cuvette box.

However, Barker teaches a loading apparatus (10) having a carousel (16) for receiving samples (16) wherein the carousel has barcode label (140) to identify the carousel and the samples that carousel carries therewith (see Fig. 1; col. 2, line 53- col. 3, line 12; col. 6, lines 3-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further employ the teachings of Barker into the teachings of Berssen/Fann due to the fact that the supplemental barcode on the cuvette box or the carousel can hold an additional information useful to the operator(s)/user(s) such as serial number, data, time, location, etc. for identifying a carousel and/or the contents of carousel, etc. for inventory purposes, and therefore an obvious expedient.

Response to Arguments

7. Applicant's arguments filed 14 May 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., plural kinds of start codes, plural kinds of stop code, the number of successive digits can be reduced by squeezing more data variation of the number of characters that are already provided, number of possible variation) are not recited in the rejected claim(s) (see page 8, line 1+). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In this case, Fan teaches several possible control codes (e.g., a start code, a stop code, a checksum code). Therefore, given its broadest reasonable interpretation of this instant claimed invention, the combination of Berssen as modified by Fann meets the claimed limitation.

In response to the applicant's argument that *"there is no teaching or suggestion..... that adds to the number of bits or distant values that can be encoded by given number of information characters."* (see page 7, line 26+), the Examiner respectfully disagrees with the applicant wherein the barcode can be formed by combining of a start code, information code, checksum code, and stop code in which the information code is differ according to the encoding information/data in which produce each and every barcode forming variously as shown in Figs. 1A-1L and an exemplary barcode of such formation is shown in Fig. 4 of Fann. Moreover, such barcode can be represented with combination of characters and digits as well as

barcode formation as shown in Fig. 4 of Ackley in which barcode is generated with based on values of table shown in Fig. 5 of Ackley.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure;

Hendrix et al. [US 5,391,352] discloses a blood analysis apparatus,

Bell [US 4,729,661] discloses an asynchronous serial cuvette reader.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Seung H. Lee whose telephone number is (703) 308-

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5894. The examiner can normally be reached on Monday to Friday from 7:30 AM to 4:00 PM.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (703) 305-3503. The fax-phone number for this group is (703) 308-5841 or (703) 308-7722.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [michael.lee@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.


Seung H. Lee
Art Unit 2876
July 24, 2003


MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800